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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/923,530	08/07/2001	Lawrence D. Bergman	YOR920000742US1	2121

7590 03/21/2006

Ryan, Mason & Lewis, LLP
90 Forest Avenue
Locust Valley, NY 11560

EXAMINER

TO, BAOQUOC N

ART UNIT	PAPER NUMBER
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2162

DATE MAILED: 03/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/923,530	BERGMAN ET AL.	
	Examiner	Art Unit	
	Baoquoc N. To	2162	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-49 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-49 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-49 are pending in this application.

Response to Amendment

2. The DECLARATION OF PRIOR INVENTION filed on 09/19/2005 under 37 CFR 1.131 has been considered but is ineffective to overcome the Acharya reference.

After reviewing the inventor declaration, the conception have been established by the exhibit 2 which discloses substantially the same before or on about 01/02/2001.

Upon further reviewing Attorney affidavit and all remainder corresponding exhibits, there is no evidence in the exhibit, which indicates that IBM instructs the preparation of this application prior the March 23, 2001 effective filing date of the Acharya.

A. In paragraph 2 of the Inventor Declaration which indicates "an IBM disclosure document entitled "indexing Method For Queries Using Multiple Positive and Negative Examples" for preparation of the a related patent application" not for the current application (09/923530).

B. In paragraph 4 of the Inventor Declaration only indicates that "a draft application and relative figures for the invention that is the subject of the present application to the inventor's attorney at the law firm of Ryan, Mason & Lewis, LLP, to assist in the preparation of the related patent application. The accompanying letter, dated January 2,2001, from inventor Vittorio Castelli, and the draft patent application are attached here as to Exhibit 2". Once again, there is no evidence or indication that

IBM instructs the law firm of Ryan, Mason & Lewis, LLP or attorney William E. Levis to prepare current application (09/923530).

Therefore, The DECLARATION OF PRIOR INVENTION filed on 09/29/2005 under 37 CFR 1.131 has been considered but is ineffective to overcome the Acharya reference.

Contact Information

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Baoquoc N. To whose telephone number is at 571-272-4041 or via e-mail BaoquocN.To@uspto.gov. The examiner can normally be reached on Monday-Friday: 8:00 AM – 4:30 PM, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Breene can be reached at 571-272-4107.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

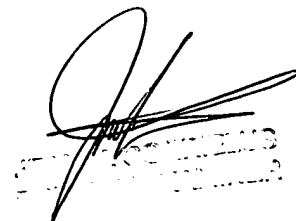
Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
Washington, D.C. 20231.

The fax numbers for the organization where this application or proceeding is assigned are as follow:

(571) –273-8300 [Official Communication]

BQ To
March 17th, 2005

A handwritten signature in black ink, appearing to be 'Baoquoc N. To', is written over a rectangular stamp. The signature is stylized with a large loop at the top and a horizontal line across the middle. The stamp is partially obscured by the signature.